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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/039,684 | 12/31/2001 | Lowell F. Matthews | AMPE/02A | 9708 |

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EXAMINER

GRAY, LINDA LAMEY

ART UNIT

PAPER NUMBER

1734

DATE MAILED: 08/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/039,684

Applicant(s)

MATTHEWS ET AL.

Examiner

Linda L Gray

Art Unit

1734

-- Th MAILING DATE of this communication appears on th cover sheet with th correspond nce address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2001 and 06 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16, 41-43, 45-49 and 59-75 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-16, 63, 64 and 73 is/are allowed.
- 6) ☒ Claim(s) 1, 8, 10, 41, 45, 59, 60, 65, 66, 69, 70, 72, 74 and 75 is/are rejected.
- 7) ☒ Claim(s) 2-7, 9, 42, 43, 46-49, 61, 62, 67, 68 and 71 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 31 December 2001 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

- 1.** The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 2. Claims 8 and 72 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claim 8 is indefinite because it is unclear what is meant by "in a single of the webs through a press".

Claim 72 is indefinite because "said first and second webs" (last line) lack antecedent basis. It is unclear from claim 72 which of the three layers are the first and second webs.

Claim Rejections - 35 USC § 102

- 3.** The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless – (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- 4. Claims 1, 8, 10, 41, 45, 59-60, 65-66, 69-70, 72, and 74-75 are rejected under 35 U.S.C. 102(b) as being anticipated by Wolfersperger (US 4,636,273).**

Claims 1, 41, and 72 and 74, Wolfersperger teaches a process for making a multi-layer label 7 including (a) providing hold-down openings 3 in first upper label web element 2 which defines an upper label layer, (b) combining element 2 with web element 20 which defines a base label layer or also called a carrier web, and (c) applying an adhesive overlamine to element 2 where the overlamine extends over and through openings 3 to secure element 20 and the overlamine together (c 4, L 32-52; c 4, L 67, to c 5, L 22; Figs 1, 6, 7-10).

Claim 8, the process of claim 1 in carries out in a press structure of Figure 6. **Claim 10**, material from openings 3 is removed. **Claims 59, 65, and 69**, elements 2 and 20 are combined before the overlamine is applied. **Claims 60, 66, and 70**, since element 20 is applied to both sides of element 2 to form a structure of 20/2/20, the overlamine could be considered to be applied first.

Claims 45 and 75, the above discussion applies herein. In Figure 1 the first row of openings 3 are a series of transversely extending openings across element 2. Also, after the first row, any two side by side openings 3 along element 2 are the longitudinally extending openings. Note that along element 2 the openings are considered to alternate. Wolfersperger teaches cutting at 6 a series of label shapes in the overlamine with at least two upper labels being disposed side-by-side transversely across element 20.

Allowable Subject Matter

5. Claims 2, 42, and 46, and thus dependent claims 3-7, 9, 43, 47-49, 61-62, 67-68, and 71, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 11-16, 63-64, and 73 all wed.

6. The following is a statement of reasons for the indication of allowable subject matter:

claim 2: Wolfersperger does not teach element 20 includes a liner;

claims 11 and 73: Wolfersperger does not teach removing a combined waste matrix of portions of element 2 and the overlamine to leave discrete upper labels held by discrete hold-down tapes on element 20 where the discrete hold-down tapes are narrower than the width of the discrete upper labels;


claim 42: Wolfersperger does not teach removing a waste matrix of the overlamine to produce a series of discrete upper labels held on element 20 by remaining portions of the overlamine; and

claim 46: Wolfersperger does not teach a further step of defining tabs in the upper labels where the tabs substantially defined between the transversely extending openings 3 being located on the leading edge of the labels and where the tabs substantially defined between the longitudinally extending openings 3 being located on the longitudinal side edges of the labels.

7. As allowable subject matter has been indicated, Applicants' reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Conclusion

8. Any inquiry concerning this or earlier communications should be directed Linda L. Gray at 703-308-1093, 6:30am-4:00pm, M-F. The examiner's supervisor, Richard Crispino, can be reached on 703-308-3853. Any general inquiries should be directed to the receptionist at 703-308-0661. The fax numbers are 703-305-7718 (before final) and 703-872-9311 (after final).

llg 
7/28/03


LINDA GRAY
PRIMARY EXAMINER